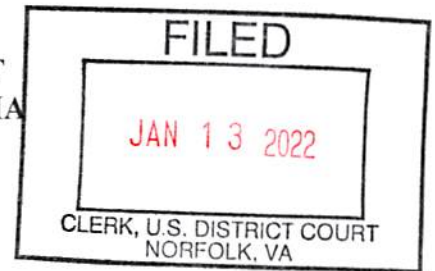


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**



ERIC J. JOHNSON, #70717-067,

Petitioner,

v.

ACTION NO. 2:21cv245

**R. WILSON, Acting Warden,
FCC Petersburg,**

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition challenges the calculation of Petitioner Eric J. Johnson's ("Johnson" or "Petitioner") federal sentence. Specifically, he seeks credit for his time spent in state custody prior to commencement of his federal sentence.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Report of the Magistrate Judge filed December 17, 2021 recommends dismissal of the petition with prejudice as the undisputed facts demonstrate that Johnson is not entitled to additional credit against his federal sentence for time spent in state custody before his federal conviction. He received state credit for this time against multiple sentences, all of which were imposed prior to his federal sentence and, therefore, he was not serving a term of pre-sentence detention and is not entitled to credit under the BOP policy implementing Willis v. Frazier, 2018 WL 304011, at *5. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the

Magistrate Judge. On December 27, 2021 the court received petitioner's Objections to the Magistrate Judge's Report and Recommendation (ECF No. 18). The Government responded to Johnson's objections on January 4, 2022. (ECF No. 19).

The court, having reviewed the record and examined the objections filed by the petitioner to the Magistrate Judge's Report and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed December 17, 2021, and it is, therefore, ORDERED that Respondent's Motion for Summary Judgment (ECF No. 7) is GRANTED, Johnson's petition is DENIED and DISMISSED with prejudice, and judgment shall be entered in favor of the Respondent.

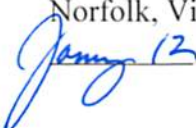
Finding that the basis for dismissal of Petitioner's § 2241 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); see Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); Miller-El v. Cockrell, 537 U.S. 322, 335–38 (2003); Slack v. McDaniel, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within sixty (60) days from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this Final Order to Petitioner and provide an electronic copy of the Final order to counsel of record for Respondent.



RAYMOND A. JACKSON,
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
 12, 2022